

## MILPERSMAN 7000-020

### INDEBTEDNESS AND FINANCIAL RESPONSIBILITY OF MEMBERS

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<b>Governing Directives</b>	JAGINST 5800.7, Manual of the Judge Advocate General (JAGMAN) 15 U.S.C. 1601 42 U.S.C. 659 12 CFR 226, Federal Reserve Board Regulation Z
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1. **Policy.** Members of the Naval service are expected to pay their just debts and financial obligations in a proper and timely manner. The Navy is without legal authority to require a member to pay a private debt, or to deduct any part of their pay to reimburse the creditor even if the indebtedness has been reduced to judgment by a civil court, unless the member's pay is to be garnished to provide child support or alimony under 42 U.S.C. 659.

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#### 2. **Enforcement of Private Obligations**

a. The enforcement of private obligations is a matter for civil authorities. A commanding officer is without authority to adjudicate claims or to arbitrate controversies concerning debts or private obligations of Naval members, or to act as an agent or collector. Members of the Naval service are not, by virtue of their military status, relieved from continuing obligations to obey pertinent civil laws or to comply with the terms of applicable civil court orders, decrees, or judgments. However, the Soldier and Sailors Relief Act, as amended, provides for certain privileges and benefits for members of the Naval service.

b. The extent to which commanding officers may cooperate with creditors is limited to administrative referral of correspondence to the member. The commanding officer shall

ensure the member communicates their intentions regarding the creditor. Under the Fair Debt Collection Practices Act (15 U.S.C 1601), contact by a debt collector with third parties, such as commanding officers, for the purpose of aiding debt collection is prohibited without prior concurrence of the debtor, or without a court order. Claims for support of family members or claims by the Federal, State, or Municipal governments are not limited by this section.

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### 3. Creditor's Obligations

a. The following requirements should be met by creditors prior to assistance in collecting debts:

(1) Creditors subject to 12 CFR 226, and assignees claiming thereunder, shall submit, with their request for debt processing assistance, an executed copy of the Certificate of Compliance and a true copy of the general and specific disclosures provided the member as required by the Truth-in-Lending Act, 15 U.S.C. 1601.

(2) A creditor not subject to 12 CFR 226, such as a public utility company, shall submit a certification that no interest, finance charge, or other fee is in excess of that permitted by the law of the state from which the obligation was incurred under Section 226.3 of Regulation Z.

(3) A foreign-owned company having debt complaints shall submit with its request a true copy in English of the terms of the debt and shall certify that it has subscribed to the Standards of Fairness.

(4) Credit unions chartered to serve DOD personnel but operating off military installations; banks and credit unions operating on military installations; and bank branches operating on military installations shall conform to the Standards of Fairness. Relative to this requirement, the Truth-in-Lending Act prescribes the general disclosure requirements which must be met by those offering or extending consumer credit and 12 CFR 226, prescribes the specific disclosure requirements for open-end and installment credit transactions. In lieu of Federal requirements, state regulations apply to credit transactions when the Federal Reserve Board has determined that state regulations impose substantially similar requirements and provide adequate enforcement measures. Regulations of the

Federal Reserve Board should be checked to determine whether Federal or State laws and regulations govern.

b. These requirements of certification do not extend to

(1) claims of companies furnishing services such as newspapers and similar services where credit is extended solely to facilitate the service, as distinguished from inducing the purchase of the product or service; or

(2) claims by accommodation endorsers, co-makers, or lenders against the party primarily liable on obligations not intended to benefit the accommodating party, through payment of interest or otherwise; contracts for the purchase, sale, or rental of real estate; claims in which the total unpaid amount does not exceed \$50.00; claims for support of family members; claims based on a revolving or open-end credit account if the account shows the periodic rate and its annual rate equivalent and the balance to which it is applied to compute the charge; or purchase money liens on real property (does not include liens on real property and related obligations such as those which represent obligations for improvement or repair).

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4. **Commanding Officer's Obligations.** The commanding officer shall ensure members of their command are instructed in financial responsibility, suggested via the command's General Military Training program. Disinterested third party counseling (financial counselor) should be made available by each command to assist members with their financial concerns or problems. Training should help to emphasize the following:

a. Thrift is not only a virtue, but for most people, a necessity.

b. The way in which one handles their private financial affairs provides a reliable indication of their general character and truthworthiness.

c. Prior to acceptance of any credit plan, members should evaluate their financial capabilities and set up a budget, which will preclude hopeless entrapment in overburdening and ever increasing debts.

d. Consultation with a Legal Assistance Officer, or Command Financial Assistant, when contemplating large purchases on

credit may assist members to avoid commitments which may be difficult or impossible to carry out.

e. Be wary of the "high pressure" salesperson. Think carefully and seek advice before signing an agreement or contract. Never sign a blank contract and always multiply the number of payments by the amount to determine the total payment. Note particularly the penalty clauses.

f. Failure to pay just debts or repeatedly incurring debts beyond one's ability to pay is evidence of irresponsibility and may jeopardize their security clearance status, advancement status, duty assignment, qualification for reenlistment or extension of enlistment, retention, and in aggravated circumstances may become grounds for disciplinary and/or administrative separation action.

g. A savings may be realized by setting funds aside to provide for cash purchases.

h. Take advantage of the saving, counseling, and lending services provided by credit unions organized by and for the Department of the Navy civilian and military personnel.

i. The use of the statement of Full Disclosure forms as set forth herein will be included in indoctrination and each member desiring to obtain or execute a loan will be encouraged and advised to require the creditor or lender to complete the Full Disclosure form to be signed by both parties to the transaction.

j. Members who did not seek or heed advise beforehand or who otherwise encounter difficulties in paying their debts should be encouraged to consult with a Legal Assistance Officer per JAGINST 5800.7 (JAGMAN).

k. Bankruptcy is not an easy way out of indebtedness. The Navy neither encourages nor discourages the filing of a petition in bankruptcy. The circumstances prompting bankruptcy proceeding are considered carefully since they may reflect adversely on the military character of the petitioner. A discharge in bankruptcy does not give a member immunity from appropriate disciplinary or administrative action for failure to pay just debts committed prior to a petition of bankruptcy.

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5. **Notice of Indebtedness**. Upon receipt of a notice of indebtedness, determine if the creditor is:

a. a debt collector who is in violation of the Fair Debt Collection Practices Act or a state statute regulating debt collection practices;

b. a nonjudgement creditor who has complied with the Standards of Fairness, made a full disclosure of the terms of the obligation, and executed the Certificate of Compliance before consummating the loan or credit contract, and has submitted a copy of the statement of Full Disclosure and the Certificate of Compliance with the signatures of both parties and the date of its execution;

c. a nonjudgement creditor who has certified that the Standards of Fairness are complied with and that the unpaid balance is adjusted accordingly or needs no adjustment, including a statement of Full Disclosure reflecting compliance. This provision applies only to those cases in which the creditor has not executed a Certificate of Compliance prior to the consummation of the contract or is unable to produce it.

d. a creditor who has procured a judgment in a civil court of competent jurisdiction.

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6. **Letters to Creditors**. In the event that a notice of indebtedness is received by a member's command, the appropriate form letter should be used.

IF...	THEN...
a debt collector is in violation of the Fair Debt Collection Practices Act or a state statute	return the correspondence to the sender with Letter <b>L-1</b> .
the creditor is not listed under Creditors Obligations block	send the creditor Letter <b>L-2</b> .
a creditor is not in violation of the Fair Debt Collection Practices Act or a state statute, and is one of the other types listed under the Creditors Obligation block	send the correspondence to the member concerned.  have the member respond directly to the creditor in writing, or another documented manner regarding their intentions.  send the creditor Letter <b>L-3</b> .
after resubmitting Letter <b>L-2</b> , the creditor still has not satisfactorily met the requirements for full disclosure or signed the Certificate of Compliance	send Letter <b>L-4</b> .
a creditor's letter is received via a member of Congress	respond by Letter <b>L-5</b> .
reply concerns verification of a member's employment as status of pay,	respond by Letter <b>L-6</b> .

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7. **Indebtedness to the Navy and Marine Corps Relief**

a. The Navy and Marine Corps Relief Society (NMCRS) maintains a close affiliation with the Navy and Marine Corps. Communications from the NMCRS to the commanding officer concerning funds advanced to a member are made only after repeated unsuccessful attempts have been made to communicate

with the member. The NMCRS requests commanding officers to have the member interviewed, to ask the member to reply to the NMCRS correspondence, and to submit a recommendation regarding member's ability to repay the funds. Answers to these letters shall be answered in terms of action and information requested, not in terms of typical indebtedness letters. These letters are not appropriate when responding to NMCRS, or letters to other commanding officers, which are neither indebtedness complaints, nor collection letters.

b. Claims in which compliance with these requirements is questionable, or in which the total cost of the loan or credit including all finance charges, although stated, appear excessive shall be referred to the officer designated by the command as responsible for such consideration and disposition as may be appropriate. However, before deciding on the proper course of action, the command shall give the creditor an opportunity to demonstrate that the finance charges conform to law and the extent to which the finance charge and rates conform to prevailing rates and charges for similar consumer credit transactions.

c. Expeditious action is encouraged in the best interest of the Navy, and to assist member where feasible in obtaining needed credit, or preventing adverse credit information from being entered on their account(s).

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8. **Request for Information on Member's Pay.** Requests to furnish information concerning the personal credit rating of a member of the naval service should be courteously refused. Inquiries will be limited to a verification that the member is in the naval service, and a statement of the members duty station, duty address, and basic pay information. The command may provide the member a Statement of Service (see Letter L-7), which includes a statement of pay and allowances that has been signed and released by the command.

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9. **Actions in Aggravated Situations of Nonpayment**

a. Should an aggravated situation due to nonpayment occur, the member should be immediately counseled on the adverse effects of such notification of nonpayment of legal debts, and the need to take prompt action to resolve the nonpayment issue.

b. If considered necessary to assist the member in managing their financial affairs, require the member to submit a statement of monthly finance (income and output) (see Letter **L-8**). Submit to Department of the Navy, Central Adjudication Facility (DON CAF), if appropriate, a full report of the circumstances in connection with any petition in bankruptcy, discharge in bankruptcy, or approved Wage Earner's Plan.

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**LETTER L-1**

Dear Sir/Madam:

This is in reply to your letter of (date) concerning the alleged indebtedness of (grade/rate/name).

The policy of the Department of the Navy is that members of the naval service shall honorably discharge their just and fair debts. We have, however, no authority to enforce settlement of any private claims made against members of the naval service, nor is adjudication of disputed claims a matter under the cognizance of the Department of the Navy.

The Navy will forward complaints of indebtedness to members advising them to communicate directly with the creditors regarding their intention in the matter, provided the letter of indebtedness complies with statutory and regulatory requirements.

A careful review of the contents of your correspondence suggest that it is in violation of (statute (federal or state, or both)), in that (briefly describe the apparent violation, i.e., correspondent is a member of the class of persons prohibited from contacting third parties). Therefore, the correspondence is returned to you without action.

You are advised to communicate directly with (grade/rate/name) about this matter.

Sincerely,

(Attached enclosures.)

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**LETTER L-2**

Dear Mr./Miss/Mrs./Ms/(surname)

This is in reply to your letter of (date) concerning the alleged indebtedness of (grade/rate/name).

The policy of the Department of the Navy is that members of the naval service shall honorably discharge their just and fair debts. The Department of the Navy has no authority to enforce settlement of any private claims made against members in the naval service, nor is adjudication of disputed claims a matter under the cognizance of the Department of the Navy.

Department of Defense directives require that as a condition precedent to forwarding complaints of indebtedness to a member, the enclosed forms must be completed and the Standards of Fairness complied with. If, after review, it appears that the provisions of the Department of Defense directives have been fully satisfied, the matter will be referred to the member for reply directly to you.

Sincerely,

Enclosures: (Standards of Fairness forms for a statement of Full Disclosure and a Certificate of Compliance.)

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**LETTER L-3**

Dear (fill-in):

This is in reply to your letter of (date) concerning the alleged indebtedness of (grade/rate/name).

In view of your letter, the member has been advised to communicate directly with you regarding their intentions in this matter. I hope that this action will result in the matter being satisfactorily resolved.

Sincerely,

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**LETTER L-4**

Dear Mr./Miss/Mrs./Ms. (surname):

This is in reply to your letter of (date) concerning the alleged indebtedness of (grade/rate/name).

After a careful review of the contents of your correspondence, it does not appear that the Full Disclosure test and the Standards of Fairness requirement have as yet been met. (Specify particulars to the extent appropriate). This command is not permitted to assist you until the Standards of Fairness have been complied with, or until such time as you have obtained a civil judgment in a court of competent jurisdiction which complies with the provisions of the Soldier's and Sailor's Civil Relief Act.

Sincerely,

Encl: (correspondence in this case.)

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**LETTER L-5**

My Dear Mr. (Congressman/Congresswoman):

This is in reply to your letter of (date) concerning the alleged indebtedness of (grade/rate/name), United States Navy.

Navy personnel are well indoctrinated in the Department of the Navy's policy of expecting all members to discharge their acknowledged debts and just obligations. We desire to cooperate and be of assistance to persons who are experiencing difficulty in collecting from naval personnel. There is no legal authority to exercise control or direction over federal pay in matters of personal indebtedness. Cooperation is restricted to bringing the matter to the attention of the member concerned, and requesting they communicate directly with the creditor regarding their intentions in the matter.

Department of Defense directives require that as a condition precedent to forwarding complaints, the enclosed form must be completed and the Standards of Fairness complied with. Your constituent should be advised to send the forms to: Commanding Officer, (fill-in). I have ensured the member is advised of our learning of this issue, and have recommended he take action on his part to resolve the issue immediately.

Sincerely,

Encl: (Standards of Fairness forms for Full  
Disclosure/Certificate of Compliance.)

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**LETTER L-6**

Dear Sir/Madam:

This is in reply to your letter of (date) requesting certain information relative to the credit rating of (grade/rate/name), United States Navy.

(Grade/rate/name) is currently a member of the naval service on active duty. His/her official address is: (fill-in). Current policy of the Department of the Navy precludes furnishing further information in this regard. If more detailed data is required, we suggest it be requested directly from the member or from credit bureaus or other commercial rating agencies.

We hope that the foregoing information satisfactorily answers your inquiry.

Sincerely,

**NOTE:** When in receipt of letters from creditors desiring to contact a member about their indebtedness and the member has transferred, the command should advise the creditor of the member's new duty station address or that the member has been discharged from the Navy and the Navy is not authorized to provide creditors with member's forwarding civilian address. Home addresses are never to be released.

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**LETTER L-7 (STATEMENT OF SERVICE)**

This memorandum certifies that (grade/rate/name) is currently on active duty in the United States Navy, assigned to (fill-in command and address). His/her expiration of current enlisted is (fill-in). He/she entered in the Navy on (fill-in). His/her current military pay is as follows:

BASE PAY:

SPECIAL PAY (SEA/SUB/FLIGHT/MEDICAL/PRO, ETC., PAY):

ALLOWANCE FOR QUARTERS (BAQ):

ALLOWANCE FOR MEALS (BAS):

VARIABLE HOUSING ALLOWANCE (VHA):

REQUIRED DEDUCTIONS INCLUDE:

FEDERAL INCOME TAX:

STATEMENT INCOME TAX:

FICA:

(ANY OTHER REQUIRED DEDUCTIONS - GARNISHMENTS, ETC).

I hereby authorize the above information for the purpose of (obtaining a home loan, etc).

MEMBER'S SIGNATURE

I certify that the above information is a true report of member's current pay as of the date of this memorandum.

COMMAND REPRESENTATIVE

(Commands are advised to keep a copy of this memorandum for one year.)

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**LETTER L-8**

From: (Grade/rate/name/component/SSN)  
To: Commanding Officer, (fill-in)

Subj: STATEMENT OF MY FINANCIAL STATUS, AND CURRENT  
INDEBTEDNESS

1. PRIVACY ACT STATEMENT: Under the authority of Title 5, USC, Section 301, and Department Regulations, information concerning my financial status and current indebtedness has been requested so my command may evaluate my financial status and current indebtedness, and counsel me in regard to them. I also understand that such information may be used in administrative discharge proceedings. The information provided by me may become a permanent part of my personal record and will not be divulged without my written authorization to anyone other than officials, and employees of the Department of the Navy, and other governmental departments or agencies engaged in their official duties. I understand that disclosure of this information may hamper effective counseling by my command. Further, I understand that if I fail to disclose the requested information, any administrative determination upon which my financial status and current indebtedness may have a bearing will be made on the basis of other available information, which may support a determination adverse to me. Lastly, I understand that disclosure of my social security number is also voluntary and that there is no adverse effect on me for not disclosing it; however I understand that disclosure of my social security number will reduce the possibility of mistaken identity.



2. My current financial status is as follows:

Current monthly income:	Average monthly expenditures:
Pay:	Shelter:
Allowances:	Food:
Bonus:	Utilities:
Other:	Clothing:
TOTAL:	Entertainment:
	Other (includes taxes):
	TOTAL:

Down payment:	Amount paid to date:
	Amount owed:

3. My current indebtedness is as follows: (make a separate listing for each creditor with the following information)

Creditor:	Nature of debt:
Date debt incurred:	Monthly payment:
Date last payment:	Original amount owed:

4. The following judgments have been rendered against me:

Court:	Nature of judgment:
Date of judgment:	Amount of judgment:
Terms of judgment:	Amount paid to date:

5. Additional remarks concerning my intention to liquidate my obligations include/are as follows (if applicable):

6. I certify that the foregoing is correct and complete to the best of my knowledge.

SIGNATURE AND DATE

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